

1 IN THE UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF TEXAS

3 EL PASO DIVISION

4 VOLUME 2 OF 20

5
6 UNITED STATES OF AMERICA

EP:13-CR-0370-DCG

7 v.

EL PASO, TEXAS

8 MARCO ANTONIO DELGADO

July 1, 2015

9 **DOCKET CALL**

10 THE HONORABLE DAVID C. GUADERRAMA
11 UNITED STATES DISTRICT JUDGE

12
13 APPEARANCES:

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16 For the Defendant: Maureen Franco
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24 Proceedings reported by mechanical stenography,
25 transcript produced by computer-aided software and computer.

KATHLEEN A. SUPNET, CSR

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1 (Open court.)

2 (Defendant not present.)

3 THE COURTROOM DEPUTY: EP:13-CR-370, Marco Antonio
4 Delgado.

5 THE COURT: Good morning. I'd ask for announcement,
6 please.

7 MS. ARREOLA: Good morning, Your Honor. Anna Arreola
8 for the United States.

9 MR. HANSHEW: Good morning, Your Honor. Erik Hanshaw
10 on behalf of Mr. Delgado, as well as Maureen Franco, are here.

11 THE COURT: Okay. I know this was transferred here
12 from Judge Briones. We also received the case that this
13 defendant pled guilty on along with the Fifth Circuit analysis
14 of the calculation of the guidelines. And so I imagine that
15 the guideline calculations are going to be significantly
16 different, after that opinion.

17 And so have you-all received that yet from probation?

18 MR. HANSHEW: Yes, Your Honor. And actually, I'll
19 start backwards on this, which is the parties have met and
20 conferred about both of the cases, and we're here today to
21 actually ask the Court to set the case for the trial case in
22 the 2013 case for the week of November the 9th and then...

23 THE COURT: Set this case for trial?

24 MR. HANSHEW: That the 2013 case for trial November
25 9th and the resentencing case which is the 2012 case that was

1 remanded.

2 THE COURT: The only one we're here on is, is the
3 trial case, the one we called for trial.

4 MR. HANSHEW: But we figured in the spirit of trying
5 to cooperate and work with the government, we got together and
6 wanted to speak with the Court today about this.

7 What we're thinking is if we -- we're going to need to
8 have the resentencing set out further so that our office has
9 ample time to be effectively assistant in terms of reviewing
10 the entire record, including the trial record as well as the
11 appellate record and getting up to speed on that. You know in
12 terms of our calculations, we thought that would put us at
13 about the first, second week of December for the resentencing
14 case.

15 And then because we have been working with the
16 government throughout both -- well, the 2013 case we've been
17 working with them. And then in conjunction with other counsel
18 that have been on the 2012 case, we're trying to move -- we
19 would like to move the trial to November 9th, so that it allows
20 time for us to review, digest and prepare for the 2012
21 resentencing, while at the same time engage in meaningful
22 negotiations with the government.

23 MS. ARREOLA: Your Honor, if I may, the government
24 offered a package deal to try to resolve both the sentencing in
25 the first case, which was remanded from the Fifth Circuit, and

1 also to resolve both to include both the plea and a sentence,
2 subject to the Court's approval in the second case.

3 In response to Your Honor's first question regarding
4 the guidelines for the first case, we did receive an addendum
5 to the PSR. I forwarded it to Mr. Hanshew as he was not
6 included on the E.C.F. notice. And actually, the guidelines
7 did not change. Although the guidelines may have changed, they
8 still run upright against that 20-year cap. But we will be
9 submitting a sentencing memorandum well in advance of
10 sentencing. Hopefully, the parties will be able to reach a
11 resolution of both cases as part of the package deal the
12 government has offered, but we're just not there yet.

13 Mr. Hanshew, just needs -- he needs to come up to
14 speed on the first case in order to prepare for sentencing.
15 That was designated a complex case. We recently sent in the
16 trial transcripts, so that's why he's requesting some
17 additional time to get up to speed on that first case.

18 THE COURT: All right. And what is -- and so if it
19 was already -- was this one designated a complex case as well?

20 MS. ARREOLA: Yes, Your Honor, both cases were
21 designated complex.

22 THE COURT: So then we don't have any speedy trial
23 issues setting it in November?

24 MS. ARREOLA: No, Your Honor. And the government
25 would ask the Court to exclude time from today's date up until

1 the new trial date for the second case. The government cements
2 that the ends of justice outweigh the interest of the defendant
3 and the public in a speedy trial, because the parties are
4 engaged in plea discussions and including the fact that
5 Mr. Hanshew and Ms. Franco need to come up to speed on the
6 first case, because we have made a package offer as to both
7 cases.

8 THE COURT: All right. Mr. Hanshew do you join
9 Ms. Arreola in --

10 MR. HANSHEW: And actually I can even go further,
11 which is I've conferred with Mr. Delgado about this time and
12 delay and he has approved any waiver -- he waives all speedy
13 trial concerns.

14 THE COURT: Okay. All right. So we'll issue an order
15 for that. And we'll give you a trial setting -- did you say
16 November 9?

17 MR. HANSHEW: Yes, Your Honor.

18 THE COURT: Greg?

19 COURTROOM DEPUTY DUEÑAS: We have a civil trial Clark
20 versus UPS, Judge.

21 THE COURT: Who is it?

22 COURTROOM DEPUTY DUEÑAS: Clark versus UPS.

23 THE COURT: Let's just set it then.

24 COURTROOM DEPUTY DUEÑAS: Okay. November 9th at 9
25 o'clock.

1 THE COURT: Well, what's the week after -- is it the
2 week after November 9th good with you?

3 MR. HANSHEW: Oh --

4 THE COURT: If not, we can set your case November 9th
5 and we'll move the civil case a week back.

6 MR. HANSHEW: Yeah, we were just -- the seminar, we
7 were worried about bumping into the seminar if you went
8 further.

9 THE COURT: Right.

10 MS. ARREOLA: Your Honor, the government anticipates
11 the trial will be approximately two weeks.

12 THE COURT: This will be a good one.

13 All right. We'll set this one November 9th.

14 MR. HANSHEW: Thank you, Your Honor.

15 THE COURT: Anything else that we need to take up?

16 MS. ARREOLA: Your Honor, the sentencing in this first
17 case?

18 THE COURT: And you wanted to set that sentencing
19 date.

20 MR. HANSHEW: In the second week of December, if
21 possible, Your Honor.

22 THE COURT: Okay.

23 COURTROOM DEPUTY DUEÑAS: December 14th and we have
24 two civil trials scheduled that day.

25 THE COURT: Okay. We'll sentence him any time that

1 week. We can always squeeze it in before trial if that's what
2 we need to do. So we'll just set it sometime that week.

3 Do we need to continue to have docket calls on these
4 cases if we have all of these settings?

5 MR. HANSHEW: I don't think so, at this point, Your
6 Honor. If the parties --

7 THE COURT: You'll notify the Court.

8 MR. HANSHEW: -- you know, if something comes up, we
9 can ask the Court for a status conference.

10 THE COURT: Okay.

11 MS. ARREOLA: The government agrees, Your Honor.

12 THE COURT: Okay. Thank you.

13 MS. ARREOLA: Oh, Your Honor, I'm sorry if I missed
14 it, did the court exclude time under the speedy trial?

15 THE COURT: Yes, we will and I'll enter an order as to
16 that.

17 MS. ARREOLA: Okay. Thank you, Judge.

18 (Proceedings conclude.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature: /S/KATHLEEN A. SUPNET
Kathleen A. Supnet, CSR

September 9, 2018
Date

KATHLEEN A. SUPNET, CSR